

**REMARKS**

**Status of Claims**

Claims 10-19 are pending, of which claim 1 is independent.

Claims 1-9 have been cancelled without prejudice. New claims 10-19 have been added.

**Objection to Specification**

The Examiner objected to the specification because of the informalities. Applicants respectfully submit that the amendments made to the specification overcome this objection.

**Objection to Drawings**

The Examiner objected to the drawings. Applicants submit that Figures 7-11, 12A and 12B have been amended so as to include therein a legend "Prior Art." Figure 4 has been amended to correct the label S2003 to read S203, also Figure 7 has been amended to correct the circuit block 11 label DE-DAC to read DF-DAC. The reference numeral 900 of Figures 11, 12A and 12B have been deleted. Applicants respectfully submit that the amendments made to the drawings overcome this objection.

**Rejection under 35 U.S.C. § 101**

Claim 9 was rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Since claim 9 has been cancelled, the rejection of claim 9 is now moot.

**Rejection under 35 U.S.C. § 102**

Claims 1, 2 and 4-9 were rejected under 35 U.S.C. § 102(b) as being anticipated by Tanji (US 2001/0013269). Since claims 1, 2 and 4- 9 have been cancelled, the rejection of these claims is now moot.

**Rejection under 35 U.S.C. § 103**

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Tanji in view of Kang et al. (US 2001/0038032). Since claim 3 has been cancelled, the rejection of claim 3 is now moot.

**New Claims**

New independent claim 10 recites, among other features, “re-setting step of decreasing the capacity of the audio data area if the management information area becomes full before all pieces of read management information are stored.” By this step, the capacity of the audio data area is adjusted according to the storage condition of management information, which produces a unique effect that the capacity of the audio data area is known prior to actually storing audio data into the storage unit. This effect serves to prevent occurrences of skip or interruption during audio playback due to an insufficient capacity of the audio data area.

In contrast, Tanji is directed to a data storage method wherein Song Management Data of Song 1 is first stored into an HDD (see, Fig. 6B of Tanji) and then Song Data of Song 1 is stored into the HDD (see, Fig. 6C of Tanji). Then, Song Management Data of Song 2 is stored, followed by Song Data of Song 2 (see, Fig. 6D of Tanji). In this manner, Song Management Data and Song Data are stored alternately. In other words, according to the data storage method

in Tanji, pieces of Song Data and Song Management Data are stored into the HDD, irrespective of the remaining capacity available for storing Song Data.

It is further noted that Tanji states in paragraph [0039] that “[i]n this way, addition and recording of any desired song can be made until the shared address section 86 becomes full or substantially full.” This means that the capacity of the audio data area is not known until Song Data is actually stored into the HDD. Moreover, Tanji fails to disclose or suggest the background art relevant to prevention of occurrences of skip or interruption during audio playback and the minimum capacity of the audio data area that is necessary to ensure seamless audio playback. Thus, it is clear that, at a minimum, Tanji fails to disclose the re-setting step of adjusting the capacity of the audio data area as recited by claim 10.

Turning now to Kang, Applicants respectfully submit that Kang fails to cure the deficiencies of Tanji regarding the “re-setting step” as recited by claim 10.

As such, it is clear that neither Tanji nor Kang discloses or suggests the “re-setting step” as recited by claim 10. Accordingly, it is respectfully submitted that new claim 10 is patentable over the cited references regardless of whether they are taken alone or in combination. Being dependent from claim 10, claims 11-19 are also patentable over the cited references for at least the same reason as claim 10.

**CONCLUSION**

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

*Bernard P. Gold (Reg. No. 46,429)*  
for  
Ramyar M. Farid  
Registration No. 46,692

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
Phone: 202.756.8000 RMF:TS:MaM  
Facsimile: 202.756.8087  
Date: December 30, 2008

**Please recognize our Customer No. 53080  
as our correspondence address.**